

LAW FITS BAKER'S CASE

Civil Service Will Investigate His Campaign Soliciting.

IS A FEDERAL EMPLOYEE

Congressmen's Clerks Are Held to Come Under the Provisions of the Civil Service Act and the Commissioners Will Make an Inquiry—Extent of His Operations.

The Civil Service Commission will make an inquiry into the alleged solicitation of funds from Government employees to be used in the pending Ohio campaign, the investigation to be based upon the charges printed exclusively in the Morning Times of today. The solicitation was made by R. T. Baker, clerk to Representative Layton and secretary of the Ohio Democratic Association, in every way similar to the case of Recorder Taylor, who was found guilty by the commission and recommended to the President for dismissal, although such action seems to have been a trifle deferred. The interpretation of the civil service law is that the prohibition applies to the individual. This is also the view taken by Attorney General Olney in his decision of the Rickenbacker case. While a private individual may solicit money to be used for political purposes by a building occupied for Government uses, a Federal official cannot do so.

BAKER'S OFFICIAL STATUS.

In the present instance Baker is undoubtedly a Federal officer. An act of Congress makes appropriation and authorities Congressmen to employ clerks, who consequently become Government employees, and are included in the prohibition of the civil service law. This would make Mr. Baker legally liable, even if Representative Layton should deny all knowledge of or responsibility for the act. If the civil service law is applied to Recorder Taylor has not been discarded, it is now apparently applicable to both master and man. The law is sweeping, unphilosophic and comprehensive, being as follows:

Section 11. That no Senator or Representative, or Territorial Delegate of the Congress, or Senator, Representative, or Delegate-elect, or any officer or employee of either of said houses, and no executive, judicial, military or naval officer of the United States, or no clerk or employee of any department, branch or bureau of the United States, or no clerk or employee of executive, judicial, or military, or naval service of the United States, shall, directly or indirectly, solicit or receive, or be in any manner connected in soliciting or receiving any assessment, subscription or contribution for any political purpose whatever, from any officer or employee of the United States, or any department, branch or bureau thereof, or from any person receiving any salary or compensation from money of the United States.

LAW FITS THE CASE.

Section 14. That no officer, clerk, or other person in the service of the United States shall, directly or indirectly, give or hand over to any officer, clerk or person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever.

Sec. 15. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Section 16. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Section 17. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Section 18. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Section 19. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Section 20. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Section 21. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Section 22. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Section 23. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Section 24. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Section 25. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Section 26. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Section 27. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Section 28. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Section 29. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Section 30. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Section 31. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Section 32. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Section 33. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Section 34. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Section 35. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Section 36. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Section 37. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Section 38. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Section 39. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

Section 40. That any person who shall give or hand over to any officer, clerk or other person in the service of the United States, or to any Senator or Member of the House of Representatives, or Territorial Delegate, any money or other valuable consideration on account of or for the promotion of any political office whatever, shall, on conviction thereof, be punished by a fine not exceeding \$5,000, or by imprisonment for a term not exceeding three years, or by such fine and imprisonment both, in the discretion of the court.

TRUE SON OF SAM HOUSTON

Carries Old Time Texan Methods to Oklahoma's Back-woods.

Quarrel in a Saloon, Where He and ex-Sheriff Jack Love Kill Both of Their Men.

Woodward, Okla., Oct. 10.—Lawyer Ed Jennings, of this place, was shot dead in court Tuesday night and his brother mortally wounded. The men who did the shooting were ex-Senator Temple Houston, of Texas, the oldest son of Gen. Sam Houston, and ex-Sheriff Jack Love, of Woodward.

A case was being tried before Justice Miller, in which a boy was charged with stealing a keg of beer from the Santa Fe Railroad depot.

Houston, an attorney for the railroad, was prosecuting, while the Jennings brothers were the defendant's attorneys. In the course of the examination of the witnesses, the men were passed from the Jennings boys to ex-Senator Houston, and he resented it.

All the lawyers jumped to their feet, pulled revolvers, and began firing, but the court and its officers restored order before anybody was hurt.

After the adjournment of court ex-Senator Houston and ex-Sheriff Jack Love went to the Cabinet saloon, a political resort, and while they were taking a drink the Jennings brothers came in, and the quarrel was renewed.

All pulled their pistols again, including ex-Sheriff Jack Love, who is a game frontiersman and a dead shot. At the first fire Ed Jennings fell dead on the floor, and never uttered a word.

When John Jennings was raising his revolver to shoot, he was pierced through, and the pistol fell to the floor. He was shot again through the body, but had vitality enough left to run out of the saloon and up the street 200 feet, where he fell. He is not yet dead, but cannot live until morning.

Ex-Senator Houston and ex-Sheriff Love went to the saloon office and gave themselves up. The coroner held an inquest yesterday, the jury rendering a verdict in accordance with the facts, but failing to lay the blame on anybody.

Temple Houston is one of the most brilliant orators in the Southwest. His speech nominating ex-Senator Logan for the Senate several years ago, was rated as the best ever made in Texas. His speech delivered at the dedication of the new State Capitol was also very eloquent. He is forty-five years old.

KILLED IN AN OPERA HOUSE.

Actor Coleridge Fatally Hurt and Nine Others Injured.

Fort Worth, Tex., Oct. 10.—A special from Corsicana says:

"An explosion of gas occurred in the Corsicana Opera House yesterday afternoon, by Henry Coleridge, of the 'Devil's Auction' company, was instantly killed and nine other persons were badly injured."

Coleridge, who was master of transportation and manager of the calcium light, was testing a cylinder. There arose some doubt as to whether or not it contained black gas.

He struck a match and touched it to the cylinder and the explosion occurred, blowing out two windows. The noise was heard for many blocks.

When the smoke and gas cleared away Coleridge was found lying in a pool of blood. He was dismembered, and one of his legs was blown entirely off. The body was taken to the hospital.

Walter Moore, property man; Arthur Sutherland, local stage manager; Budd Dieshies, unknown negro; Alvas Munsie; Charles Ball; Robert Avery and two little girls, members of the "Devil's Auction" company.

QUALMS OF CONSCIENCE

Versus the Pangs of Hunger.

STUDENT RIOTS IN SPAIN

Radicals Stone Comrades and Attack Rector's Residence.

SYMPATHY FROM MADRID

Spanish Cabinet Negotiates a Loan of \$15,000,000 and Talks of Sending More Troops to Cuba—Bitterness Between Cubans and Spaniards Increasing in the Provinces.

Barcelona, Oct. 10.—During yesterday afternoon a number of militant students at the University here stoned their peaceful comrades.

They were tired of this they proceeded to the residence of the rector and smashed the windows.

Later they held a meeting, at which some Republican members of the Chamber of Deputies delivered harangues. The police finally stopped the meeting.

Afterward a mob, numbering 1,500 persons, headed by two anarchists, marched to the University. Here the police arrested some of the rioters.

The students of Madrid have sent a telegraphic message of sympathy to the students of Barcelona.

Madrid, Oct. 10.—The Cabinet has signed a loan of \$15,000,000 with the Banque de Paris et des Pays Bas, wholly for Cuban expenses.

One-third of the loan is payable between November 1 and 10, and the remaining installments will be paid in December and February.

Senor Canovas del Castillo, the Prime Minister, says that if the 25,000 troops destined for Cuba are not sufficient, 12,000 more will be immediately dispatched.

London, Oct. 10.—The Times today states that the bitterness between the Cubans and Spaniards in the province of Santa Clara is increasing. The numbers have notified the Spaniards State central, who were at work on the docks and swelled lately, but they lack arms and ammunition.

The dispatch adds that Captain General Campos, in an interview recently, expressed annoyance at the attitude of the United States, especially in regard to the Spanish attempt to prevent the landing of filibustering expeditions. He quoted the case of the steamer Albatross as an instance of needless trouble.

The Imperialist Havana dispatch says the insurgents derided a railway train in the province of Santa Clara yesterday by removing one of the rails of the track. One man, a railway employee, was killed. The death of the rebel leader, Peco, is confirmed.

Yellow fever is increasing in the province of Santiago de Cuba.

DEATHS OF A DAY.

Lansing, Mich., Oct. 10.—Mrs. Sarah Emery, the well-known lecturer and writer on woman suffrage, and who for several years past prominently identified herself with the Populist party, died this morning at her home in this city of cancer, after several months' painful illness. She had lectured in many States and was a powerful talker and an able writer.

Willshire, Pa., Oct. 10.—Robert Miller, aged 20 years, died at the City Hospital here at 9:30 o'clock this morning from the injuries received in the explosion that occurred at the Dorrance mine on Monday afternoon last. This is the sixth death from that explosion. Miller was a civil engineer.

RARE PAINTINGS BURNED

Colgrove Residence Guttered By a Quick Fire.

Loss on Furniture and Bric-a-brac Will Probably Reach Fifteen Thousand Dollars.

The Colgrove residence, No. 1700 Fifteenth street, was damaged by fire and water this afternoon to the estimated extent of \$15,000.

It was a few minutes past noon when flames burst from the basement and were seen by people on the street. The owner of the premises, Mr. J. B. Colgrove, of the Colgrove Transportation Lines, with his wife and sons, Edith and Russell, who operate the Colonial Beach steamer City of Richmond, were on the upper floors when the fire broke out.

By this time the fire had eaten its way to the staircase running from the basement to the parlor floor, and once here the flames swept into the vestibule, parlor and reception room, with their sumptuous furnishings and rare paintings, among the latter being one by Van Dyke, said to be worth \$5,000.

When Colgrove rushed into the office of his father on the first floor and sent out an automatic alarm, to which truck B and engine companies 1, 7 and 9 responded with all speed. Before the heavy rain reached the scene the fire had eaten into north end of the house and devastated the billiard room and conservatory. Great trays of rare porcelain crumbled under the heat and the massive gilt frames of the paintings fell to the floor with a crash.

Soon the flames were climbing the upper stories and were cutting through the sleeping rooms. Streams were kept playing on the fire and after about forty minutes the fire was subdued. There was considerable excitement in the neighborhood and the street was blocked with people.

The engines did good work and it was not long after they reached the spot that a flood of water was gushing and surging over the rich and costly carpets of the handsome home. The damage to the building is placed at about \$7,000, and on the furniture at \$8,000 or \$10,000. There is an insurance on the building of \$5,000, but none on the furniture and paintings.

The fire is thought to have originated from a defective flue.

THEY TIRE OF EACH OTHER.

Mrs. Amelia Rives Chamber Divorced From Her Wealthy Husband.

New York, Oct. 10.—Mr. W. G. Maxwell, of the law firm of Chandler, Maxwell and Philip, 120 Broadway, is authority for the statement that a decree of divorce, on the ground of incompatibility, has been granted to Mrs. Amelia Rives Chamber. It is stated that there was no opposition to the decree, and that nothing in the pleadings or the proceedings reflected unfavorably on the parties. Mr. Maxwell positively declines to give any further information, and would not say in what State the decree had been granted.

Mrs. Chamber, 29, was a daughter of the public Amelie Rives, was nine years ago the most talked about person in this country. The President of the United States had made the acquaintance of her in April, 1886, that Lippincott's Magazine published "The Quick or the Dead" and, as the name of the author of this amazing novelette was Amelie Rives, all the world straightaway wanted to know who she was.

When it came out that she was a young woman, less than 23 years old, the daughter of a proud Virginia family, brought up in a quiet country place, there was universal amazement. Everything that could possibly be said of a book, whether in praise or in blame, was said of this book. As it was peculiarly popular, it was made the subject of a great number of parodies, even of burlesques.

Miss Rives was denounced as a wicked and arrogant girl, but she was not deterred by the criticism. She was a girl of great beauty and of a charming personality. Her father was a famous engineer, Col. Alfred Rives, her grandfather was a United States minister to France, and her mother was a daughter of a famous Virginia family.

Between the "Quick or the Dead" and "The Witness of the Sun" she married. Her first husband was a young man of great wealth and of a charming personality. She lived at the beautiful old home, Castle Hill, in Allegheny county, Virginia, the country of the oldest family in the South.

Her father was a famous engineer, Col. Alfred Rives, her grandfather was a United States minister to France, and her mother was a daughter of a famous Virginia family. She was a girl of great beauty and of a charming personality.

She was a girl of great beauty and of a charming personality. She lived at the beautiful old home, Castle Hill, in Allegheny county, Virginia, the country of the oldest family in the South.

Her father was a famous engineer, Col. Alfred Rives, her grandfather was a United States minister to France, and her mother was a daughter of a famous Virginia family. She was a girl of great beauty and of a charming personality.

She was a girl of great beauty and of a charming personality. She lived at the beautiful old home, Castle Hill, in Allegheny county, Virginia, the country of the oldest family in the South.

Her father was a famous engineer, Col. Alfred Rives, her grandfather was a United States minister to France, and her mother was a daughter of a famous Virginia family. She was a girl of great beauty and of a charming personality.

REBUKE FOR SCHOFIELD

Judge Bradley Directs the Discharge of Major Armes.

TYRANNICAL AND UNJUST

In His Decision He Declares That It Was a Gratification of Personal Feeling That Caused the Arrest. Characterized as Unlawful and Capricious—Status of Retired Officers.

The supremacy of military law was given, a severe blow to-day in a decision in the Armes case.

It was rendered by Judge Bradley, and directed the discharge of the officer from the custody of the military authorities, at the same time denouncing the arrest of Maj. Armes in unmistakable terms.

Maj. Armes, his counsel, Messrs. Rabston & Sindors, Mr. S. N. Morrison, of the judge advocate general's office, and Lieut. Cummings, as representatives of Col. Clouson, who made the arrest of Maj. Armes, were all present.

As was anticipated, Mr. Morrison, the military advocate, gave notice of an appeal and the appeal bond was fixed in the customary sum of \$1,000. The appeal is made in the name of Col. Clouson, the commanding officer mentioned above.

In the beginning of his opinion the court recited the entire history of the Armes case, and the alleged improper letter by Major Armes to General Schofield, at that time acting Secretary of War, the subsequent arrest and confinement at the barracks of the writer and his application for a writ of habeas corpus, each step in which proceedings has been told in the Times.

MAJOR ARMES STATUS.

"Does it appear by the return made by the military in this matter that the petitioner is lawfully restricted of his liberty?" asked Judge Bradley, "if not, he is entitled to be discharged. He is a retired officer, and as such, by the revised Statutes of the United States, he is subject to the articles and rules of war, and liable to trial by court-martial for a breach thereof."

"The rules and articles are not all applicable to retired officers, however, and necessarily must be interpreted to fit their condition. The petitioner, by certain of these regulations, is retired from active service, is not subject to the line of promotion, retired on pay, and is assignable to duty at the Soldiers' Home, and there only."

"Or the 1,861 regulations of the Army, published by the Secretary of War in 1869, there is only one, No. 899, that imposes a duty upon a retired officer. That duty is to report his address monthly to the adjutant-general, unless specially exempted."

"The Constitution of the United States constitutes the President the commander-in-chief of the Army. He may remove any officer on the retired list as an element of the Army, and it consequently follows that the President is commander-in-chief of the retired officers of the Army."

POWER OF THE PRESIDENT.

"His title, though so far as it relates to them, appears to be an empty name, and this function of the chief executive is unaccompanied by harassing care or weighty responsibility."

"The return claims that Gen. Schofield, on September 27, as acting Secretary of War, was the representative of the President as commander-in-chief. Every officer that he removed, the letter complained of, addressed to 'Gen. Schofield, U. S. A.' was read by him in his own office, and he declared that the officer named in the return was committed in his presence as acting Secretary of War."

"The counsel for the government relied upon article 45 of the rules and regulations to defend the military in its actions. That section provides that officers charged with crime shall be arrested and confined in their barracks, quarters or tents and be deprived of their swords by the commanding officer."

"On behalf of the Armes it was stated that no charge was preferred against him at the time of his arrest, and that no charge was subsequently made. It was further held that no charge was made no arrest was necessary. His custodians claimed that by the articles of war it was unnecessary to serve charges for an arrest, but that the articles of the word 'crime' in military significance meant any offense for which a person could be court-martialed."

RIGHT OF ARREST.

"It may be that where the penalty for an offense is imprisonment or death, an arrest may be made without a warrant, but where the penalty is reprimand or dismissal an arrest and confinement would appear to be useless and a charge of custody is not essential to trial by court-martial."

"In Maj. Armes case one charge is that of conduct unbecoming an officer. The penalty is dismissal from the service. The other charge is conduct to the prejudice of good order and military discipline, punishment at the discretion of the commanding officer, and under this there is no apparent necessity for arrest or custody."

Judge Bradley explained that both charges were based upon the letter of September 27, which was a personal communication to the officer. It made grave charges, the court said, but if they were true he asked the question if that would constitute the two alleged crimes committed."

If the petitioner believed or thought, asked Judge Bradley, with emphasis, that the charges were untrue, would he not come in from the barracks? Any officer or soldier in service had a legal right to apply to his superior officer for redress from the War Department. If he believed in his superior he would not come in from the barracks."

FOR PERSONAL REDRESS.

"If a retired officer has not a similar right, then there is a 'rigid' unwritten discrimination against him that should receive early attention from our national legislature."

Judge Bradley held that the charge of crime must be antedated by some act of greater moment than minor offenses, disorders and neglects, and that the commanding officer alone have power to make arrests, the court held. It was apparently "a gratification of personal feeling" that inspired the issuance of the order from the War Department. Close confinement can be enforced only in cases of serious charges, according to the Army rules.

The court closed its opinion in the following language:

"Being of the opinion that the arrest and taking of the petitioner from the barracks is unjust, unlawful, arbitrary, tyrannical and capricious on the part of Gen. Schofield, in whatever capacity he acted, whether acting as Lieutenant General, or as acting Secretary of War, and that the petitioner is entitled to be discharged, it is so ordered."

Auction Sales To-day.

Eighty street southeast, brick dwelling. No. 709, part lot 21, square 904. Sale Thursday, October 10, 4:30 p. m. Immediately thereafter frame dwelling on 1 street southeast, No. 708, part lot 4, square 904. By order of Saml. H. Cross and J. Holdworth Gordon, trustees.

</